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SENATE BILL 151

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

H. Diane Snyder

AN ACT

RELATING TO TAXATION; ENACTING THE BUSINESS SERVICES TAX CREDIT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Business Services Tax Credit Act".

Section 2. PURPOSE OF THE ACT.--The purpose of the Business Services Tax Credit Act is to reduce the tax burden on businesses that results from multiple impositions of transactional taxes upon the sale or use of services purchased by businesses.

Section 3. DEFINITIONS.--As used in the Business Services Tax Credit Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully  
2 delegated to that employee by the secretary;

3 B. "qualified expenditure" means the amount paid by  
4 a qualified taxpayer to purchase a service that is deductible  
5 for purposes of determining net income pursuant to Section 162  
6 of the Internal Revenue Code of 1986 and for which receipts  
7 from performance of that service are subject to the gross  
8 receipts tax and are not eligible for a deduction or exemption  
9 from the gross receipts tax, but does not include expenditures  
10 for:

- 11 (1) commercial linen supply services;
- 12 (2) entertainment or recreational services;
- 13 (3) intrastate telephone and telegraph  
14 services;
- 15 (4) janitorial or cleaning services;
- 16 (5) landscaping services;
- 17 (6) repair and maintenance services;
- 18 (7) sewer and solid waste services disposal;

19 and

20 (8) services, the purchase price of which is  
21 the basis for any other New Mexico tax credit claimed and  
22 allowed either prior or subsequent to this credit; and

23 C. "qualified taxpayer" means a person liable for  
24 payment of any tax, a person responsible for withholding a  
25 payment or for collection and payment of any tax or a person to

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1 whom an assessment has been made if the assessment remains  
2 unabated or the amount of the assessment has not been paid, but  
3 does not include:

4 (1) a federal, state, tribal or other  
5 governmental unit or subdivision or an agency, department,  
6 institution or instrumentality of a federal, state, tribal or  
7 other governmental unit or subdivision;

8 (2) a taxpayer that is a nonprofit entity and  
9 for which receipts are exempt from the gross receipts tax  
10 pursuant to Sections 7-9-16 and 7-9-29 NMSA 1978; or

11 (3) a taxpayer for which receipts are exempt  
12 from the gross receipts tax pursuant to Section 7-9-24 NMSA  
13 1978.

14 Section 4. BUSINESS SERVICES TAX CREDIT. --

15 A. The tax credit provided in the Business Services  
16 Tax Credit Act may be referred to as the "business services tax  
17 credit". The purpose of the business services tax credit is to  
18 reduce the tax burden on businesses that results from multiple  
19 impositions of transactional taxes upon the sale or use of  
20 services that businesses purchase.

21 B. A qualified taxpayer may apply for, and the  
22 department may allow, a business services tax credit for  
23 qualified expenditures made during the period:

24 (1) beginning July 1, 2005 and ending June 30,  
25 2006, in an amount equal to:

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1 (a) one-half percent of qualified  
2 expenditures of the taxpayer; or

3 (b) in the case of a taxpayer that  
4 claims the gross receipts tax deduction pursuant to Section  
5 7-9-73.1 NMSA 1978, one-fourth percent of the qualified  
6 expenditures of the taxpayer;

7 (2) beginning July 1, 2006 and ending June 30,  
8 2007, in an amount equal to:

9 (a) one percent of the qualified  
10 expenditures of the taxpayer; or

11 (b) in the case of a taxpayer that  
12 claims the gross receipts tax deduction pursuant to Section  
13 7-9-73.1 NMSA 1978, one-half percent of the qualified  
14 expenditures of the taxpayer;

15 (3) beginning July 1, 2007 and ending June 30,  
16 2008, in an amount equal to:

17 (a) one and one-half percent of the  
18 qualified expenditures of the taxpayer; or

19 (b) in the case of a taxpayer that  
20 claims the gross receipts tax deduction pursuant to Section  
21 7-9-73.1 NMSA 1978, three-fourths percent of qualified  
22 expenditures of the taxpayer;

23 (4) beginning July 1, 2008 and ending June 30,  
24 2009, in an amount equal to:

25 (a) two percent of the qualified

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1 expenditures of the taxpayer; or

2 (b) in the case of a taxpayer that  
3 claims the gross receipts tax deduction pursuant to Section  
4 7-9-73.1 NMSA 1978, one percent of the qualified expenditures  
5 of the taxpayer; and

6 (5) beginning July 1, 2009 and ending June 30,  
7 2010, in an amount equal to:

8 (a) two and one-half percent of the  
9 qualified expenditures of the taxpayer; or

10 (b) in the case of a taxpayer that  
11 claims the gross receipts tax deduction pursuant to Section  
12 7-9-73.1 NMSA 1978, one and one-fourth percent of the qualified  
13 expenditures of the taxpayer.

14 C. The business services tax credit may be claimed  
15 against state gross receipts tax, compensating tax or  
16 withholding tax for which the taxpayer would be liable for a  
17 tax reporting period in which the qualified expenditure was  
18 paid or in later periods. In no case may the credit taken  
19 exceed the total gross receipts tax, compensating tax or  
20 withholding tax due for the reporting period. After the  
21 initial reporting period in which part of the credit for a  
22 qualified expenditure was claimed, any excess credit may be  
23 carried forward and used in future reporting periods.

24 D. The department shall administer the business  
25 services tax credit pursuant to the provisions of the Tax

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Administration Act.

Section 5. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2005.

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